

Attorney's Docket: 1999US001
Serial No.: 09/738,623
Group: 1751

REMARKS

The Office Action mailed December 3, 2003, has been carefully considered together with the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

CLAIM STATUS

Applicants have added new claims 39-50 and amended claims 16, 23 and 32 to further define the subject matter which Applicants regard as the invention. Claims 1-16, 33 and 34 have been cancelled without prejudice to filing a divisional. The claims under consideration are, therefore, believed to include claims 16-30 and 35-50, with claims 31 and 32 in condition for allowance.

Election/Restrictions

The Office has restricted the Application to one of the following inventions under 35 USC § 121:

- I. Claims 16-32, and 35-38; and
- II. Claims 33 and 34.

Applicants elect Group I, without traverse.

Claim Rejections Under 35 USC § 103

Claim 16-22, 26-28 and 35-38 stand rejected under 35 USC § 103(a) as being unpatentable over Bragg (US 4,430,243). This rejection is respectfully traversed.

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Applicants invention, as defined by independent claims 16, 31, 35, 37, and 38, is directed to a textile treatment bath composition wherein the textile treatment bath includes caustic soda. Bragg, in contrast, teaches a bleach catalyst composition, wherein the examples of I, III, IV and VI disclose the use of Gantrex AN119.

In the final Office Action mailed March 12, 2003, the Office first took, and now maintains, the position that "Bragg et al formulate a detergent composition comprising the Gantrex AN119 which is prehydrolyzed with NaOH." The Office's reliance upon this passage of Bragg as support for use of caustic soda in the composition is, in Applicants' respectful opinion, misplaced.

An examination of Bragg reveals that Gantrex AN119 is a trade name for maleic anhydride/-vinyl methyl ether co-polymer. Bragg states on lines 25 and 26 of column 14 that the Gantrex AN119 is "prehydrolysed with NaOH before addition." Nowhere in Bragg is NaOH disclosed as a constituent in its composition.

It is Applicants' position that to one with ordinary skill in the chemical arts, prehydrolysis of any substance is known to involve the use of only the requisite amount of hydrolyzing compound to achieve hydrolysis of the target compound, but does not teach or imply that the hydrolyzing compound be added to the composition that the artisan is intending to create. Here, Bragg specifically teaches prehydrolysis of the Gantrex AN119 with NaOH, but does not disclose, teach, or suggest to one with ordinary skill in the art that NaOH is to be added to the composition.

Bragg is abundantly clear that the prehydrolysis occurs before addition of the Gantrex AN119 to the catalyst composition. One with ordinary skill in the chemical arts would take from Bragg that the Gantrex is prehydrolyzed, but not, as the Office asserts, that NaOH is to be added to the composition. If Bragg intended the addition of NaOH to the composition, it would be safe to assume that the Tables set forth in Bragg would have included an entry and concentration for NaOH. Applicants' position is further buttressed by the fact that nowhere in Bragg, other than in the

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prehydrolysis of the co-polymer, is the use of caustic disclosed, taught, or suggested.

It is beyond contention that a *prima facie* case of obviousness requires the prior art reference to provide motivation for one with ordinary skill in the art to arrive at the claimed invention. Here such motivation is entirely lacking in Bragg. As discussed above, prehydrolysis of the co-polymer is disclosed. One with ordinary skill in the art, however, would not interpret this disclosure as teaching, disclosing or suggesting the use of active caustic soda in Bragg's composition. One with ordinary skill in the art would interpret Bragg to provide only a teaching that in order to make the co-polymer water soluble, it is prehydrolyzed before addition. This prehydrolysis step does not provide motivation for one with ordinary skill in the art to add caustic soda to the composition. Specifically, nowhere in Bragg is the use of caustic soda detailed or suggested when disclosing the constituents of the composition.

It is well settled that in a § 103 analysis, "[i]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art". In re Wesslau, 353 F.2d 238, 241; 147 USPQ 391, 393 (CCPA 1965).

Applicants respectfully contend that the Office is focusing solely on the fact that NaOH is disclosed, and fails to recognize that Bragg, in its entirety, does not disclose, teach, or suggest the use of caustic soda in its composition. For one with ordinary skill in the art to interpret Bragg to disclose the use of NaOH in the composition, goes, in Applicants' opinion, beyond that which is fairly taught or suggested by the reference.

In consequence, any motivation for one with ordinary skill in the art to go beyond the Bragg reference and employ caustic soda in the composition is the product of impermissible hindsight gained by a knowledge of Applicants' disclosure. For at least this reason, it is respectfully contended that claims 16-22, 26-28 and 35-38 are not made obvious by Bragg.

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Claims 29-30 stand rejected under 35 USC § 103(a) as being unpatentable over Bragg in view of Kravetz et al. (US 4,025,453) this rejection is respectfully traversed.

Claims 29 and 30 depend indirectly from claim 16, and, for at least the reasons advanced with respect to the § 103 rejection of claim 16 as being obvious over Bragg, it is respectfully contended that claims 29 and 30 are not made obvious by any combination of Bragg in view of Kravetz et al.

Claims 23-25 stand rejected under 35 USC § 103(a) as being unpatentable over Bragg in view of Chapple et al. (US 5,536,441). This rejection is respectfully traversed.

Claims 23-25 depend, directly or indirectly, from claim 16, and for at least the reasons advanced with respect to the § 103 rejection of claim 16 over Bragg, it is respectfully contended that claims 23-25 are not made obvious by any combination of Bragg in view of Chapple et al.

In view of the foregoing remarks, Applicants contend that the § 103 rejections have been traversed, and therefore solicit reconsideration and withdrawal of the rejections.

The Commissioner is hereby authorized to charge Deposit Account No. 03-2060 \$578.00 for the 13 additional dependent claims and the 4 additional independent claims. The Commissioner is also authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 03-2060.

In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,


Anthony A. Bisulca
Attorney for Applicant
Registration No. 40,913

-(CUSTOMER NUMBER 25,255)

Clariant Corporation
Industrial Property Department
4000 Monroe Road
Charlotte, North Carolina 28205
Phone: (704) 331-7151
Fax: (704) 331-7707